

Hinchey, Kaptur, Rothman, Farr, Serrano, Jackson and Fattah Say Policy Would Increase Overreliance on Private Contractors Despite DoD Claims

Washington, DC - In a letter to U.S. Secretary of Defense Robert Gates, Congressman Maurice Hinchey (D-NY), joined by Representatives Marcy Kaptur (D-OH), Steve Rothman (D-NJ), Sam Farr (D-CA), José Serrano (D-NY), Jesse Jackson, Jr. (D-IL) and Chaka Fattah (D-PA), today called into question the Pentagon's "Efficiency Initiative," noting that the effort would increase the Department's overreliance on private contractors, despite claims to the contrary.

The House members argued that an arbitrarily imposed civilian hiring freeze will require cuts to the civilian workforce despite growing needs. This will lead to an increased reliance on more expensive private contractors and an outsourcing of inherently governmental functions, in direct contradiction to existing law and the department's own insourcing initiative. The trend is reflected in the department's FY 2012 budget request, which cuts spending on civilian pay, while increasing spending on contracted services, despite the department's announced goal of reducing contractors by 10 percent.

Hinchey and his House colleagues identify the department's failure to complete a service contractor inventory and integrate the result into the budget process as required by the FY 2008 National Defense Authorization Act as a primary source of the problem. "Without having accurate data on the size and costs of these activities, contractors are essentially invisible in the budget process," they wrote. "This helps explain why the 'Efficiency Initiative' reduces costs by imposing severe constraints on the civilian workforce without imposing any comparable constraints on contractors."

In addition to calling for the completion of a service contractor inventory and integration of the results into the budget process, the members stressed a reduced reliance on arbitrary freezes. "Workforce decisions at DoD shouldn't be made based on arbitrary constraints," said Hinchey. "Instead, the focus needs to be on proper management through budgets and workloads and ensuring that the department's managers can choose between civil employees and contractors on the basis of cost, policy, risk and the law."

The text of the  [letter to Secretary Gates](#) follows.

April 5, 2011

The Honorable Robert Gates
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon, Room 3E718
Washington, D.C. 20301

Dear Secretary Gates:

We strongly support your efforts to make the Department of Defense more efficient. However, we have very serious concerns about the department's proposed "Efficiency Initiative," which would severely impact critical services managed by the civilian workforce and lead to continued overreliance on private contractors to support vital missions. We write to urge the department to reform its workforce management plan to ensure that performance decisions are based on cost, policy, risk, and the law.

The department's "Efficiency Initiative" imposes serious limitations on the civilian workforce by freezing it at fiscal year 2010 levels. This will require some components to cut their civilian workforces in order to adhere to this arbitrary constraint, including reported Army civilian cuts of 33,000. While the civilian workforce will be curtailed, the needs it fills are continuing to grow. As a result, private contractors will need to be hired to fill critical gaps created by the civilian workforce freeze, which will lead to increased costs for the public, the outsourcing of inherently governmental functions, and offset significant savings assumed by the "Efficiency Initiative."

This is confirmed by the department's fiscal year 2012 budget request. A significant amount of the initiative's \$54 billion in overhead savings over three years are taken from civilian employees in the form of the workforce and pay freeze. However, little is being done to curtail costs of private contractors and in fact, it appears that the department intends to significantly increase funding for service contracts. Although you announced a goal of reducing contractors

by 10 percent each year for three years, the "Efficiency Initiative" ultimately only reduces the department's budget for a narrow subcategory of service support contracting, which represents just three percent of the total contracting generally.

Your description of service support contracts appears to define personal services contracts, which are largely prohibited under civil service laws that require the government to obtain its employees by direct hire under competitive appointment. The goal should be to eliminate those positions, not reduce them by 10 percent for three years. The "Efficiency Initiative" appears to include no other constraints on service contractor spending. Moreover, the department's fiscal year 2012 budget request would actually increase funding for service contracts by \$23.7 billion or 38 percent when the department already spends significantly more on contractors than it does on civilian employees. This would significantly reduce any savings achieved by a civilian workforce freeze and in fact may lead to an increase in costs to the public.

Perhaps the biggest impediment to the success of the "Efficiency Initiative" is the failure of the department to complete its service contractor inventory (10 USC 2330a) and integrate the results into the budget process (10 USC 235), both of which are required by the fiscal year 2008 National Defense Authorization Act. Without having accurate data on the size and costs of these activities, contractors are essentially invisible in the budget process. This helps explain why the "Efficiency Initiative" reduces costs by imposing severe constraints on the civilian workforce without imposing any comparable constraints on contractors. The "Efficiency Initiative" will likely raise costs by preventing the department from using civilian employees in instances when they are more efficient, and it will also leave DoD even more dependent on contractors because the department will be prevented from ensuring that civilian employees are performing inherently governmental functions.

The "Efficiency Initiative" seems plainly contrary to the law against managing the department's civilian workforce with arbitrary constraints (10 USC 129) as well as other requirements to use the more efficient workforce (10 USC 129a), give "special consideration" to insourcing certain functions (10 USC 2463), and use civilian employees to perform "closely associated with inherently governmental functions" (10 USC 2330a).

As such, we strongly urge you to immediately undertake three necessary reforms to the "Efficiency Initiative":

- Implement the service contractor inventory and integrate the results into the budget process, as required by the fiscal year 2008 National Defense Authorization Act;

- Manage the civilian workforce by budgets and workloads, not arbitrary constraints;
- Ensure that DoD managers can make performance decisions between civilian employees and contractors on the basis of cost, policy, risk, and the law.

We respectfully request a prompt reply and look forward to working with you on these issues.

Sincerely,

Maurice D. Hinchey
Member of Congress

Marcy Kaptur
Member of Congress

Steven Rothman
Member of Congress

Sam Farr
Member of Congress

José E. Serrano
Member of Congress

Jesse Jackson, Jr.
Member of Congress

Chaka Fattah
Member of Congress